

EXHIBIT 4

1
2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE SOUTHERN DISTRICT OF NEW YORK

4 -----X
5 H. CRISTINA CHEN-OSTER; LISA
6 PARISI; and SHANNA ORLICH,
7 Plaintiffs, 10-CV-06950 (LBS)
8 VS.
9 GOLDMAN, SACHS & CO. and THE
10 GOLDMAN SACHS GROUP, INC.,
11 Defendants.
12 -----X

13 VIDEOTAPED DEPOSITION
14 OF
15 CRISTINA CHEN-OSTER
16 New York, New York
17 Thursday, December 8, 2011
18

19 Reported by:
20 AYLETTE GONZALEZ, CLR
21 JOB NO. 43151
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23
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CRISTINA CHEN-OSTER-12/8/11
REDACTED FILED UNDER SEAL

Page 23

REDACTED FILED UNDER SEAL

Page 24

REDACTED FILED UNDER SEAL

Page 25

REDACTED FILED UNDER SEAL

7 (Pages 22 to 25)

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1 REDACTED FILED UNDER SEAL
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1 REDACTED FILED UNDER SEAL
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9 Q. But she certainly has never worked
10 at Goldman Sachs to your knowledge?
11 A. To my knowledge, she has not worked
12 for Goldman Sachs.
13 Q. We're going to hand you two
14 documents which we'll mark as Exhibits 47 and
15 48.
16 MR. ROGERS: This is Exhibit 47.
17 I'm handing a copy to Plaintiff's
18 Counsel.
19 (Defendant's Deposition Exhibit
20 47, document bearing Bates label
21 GS0000168, marked for identification,
22 as of this date.)
23 MR. ROGERS: This is 48. And I'll
24 hand a copy to Plaintiff's Counsel of
25 Exhibit 48.
(Defendant's Deposition Exhibit

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48, document bearing Bates label
GS0000134, marked for identification,
as of this date.)

Q. Before we get to that, you
mentioned this [REDACTED], I should ask, I
suppose, what did she tell you about her own
recording of conversations?

A. She told me that she had made
recordings in order to have her own record of
conversations.

Q. Did anyone else prior to the time
you began surreptitiously taping people at
Goldman Sachs tell you that they had taped
conversation?

A. Not that I can remember.

Q. All right. If you look at
Defendant's Deposition Exhibit 47 and 48,
could you tell me whether those are documents
that bear your signature?

A. Yes.

Q. All right. So let's look at
Exhibit 47, this was your signed
acknowledgment dated March 3, 1997 that you
received a current copy of the U.S. version of

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Goldman Sachs employee handbook including
descriptions of personnel policies and
benefits; isn't it?

A. Yes.

Q. And it was signed by [REDACTED],
who was your direct supervisor at the time;
isn't that correct?

A. No.

Q. I'll break it down then. It was
signed by [REDACTED]; was it not?

A. No.

Q. All right. Is that someone else's
handwritten reference to him as your
supervisor?

A. Yes.

Q. My mistake, excuse me. But this
does bear your signature; does it not?

A. Yes.

Q. Is that your handwriting that did
[REDACTED] and also your own name?

A. Yes.

Q. Okay. So, you filled out
everything that's on this document, correct,
that's in handwriting?

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A. Yes.

Q. Look at Defendant's Deposition
Exhibit 48. Is that your signature on this
document?

A. Yes.

Q. And this is a November 1999
acknowledgment by you of having received the
firm's U.S. employee handbook in updated form;
is it not?

A. November 18, 1999.

Q. That's when you signed it, yes?

A. Yes.

Q. By signing it, you acknowledged
receipt of an updated copy of the handbook;
did you not?

A. Yes.

Q. And you see the bold language there
saying, "It's very important that you read the
handbook, especially since many sections are
new or revised," goes on to say, "The handbook
provides important information about your
entitlements and obligations as an employee.
Please sign below to indicate that you have
received the handbook and will comply with all

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handbook policies and procedures therein as
amended from time to time."

And you signed below that
statement; did you not?

A. Yes.

MR. ROGERS: I'd like to mark as
Exhibit 49, a document bearing
production numbers GS-99133 through
GS-99136 and then with a page
GS-99197, which is an excerpt of the
handbook. I'm handing a copy to
Plaintiff's Counsel.

(Defendant's Deposition Exhibit
49, document bearing Bates label
GS0099133 through GS0099136 and
GS0099197, marked for identification,
as of this date.)

Q. Similar to Exhibit 44,
Ms. Chen-Oster, Defendant's Deposition Exhibit
49 contains certain pages from the 1999
version of the Goldman Sachs employee handbook
U.S.

Would you turn to the last page
which does bear production number GS-99197.

12 (Pages 42 to 45)

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2 A. Yes. This is the 1999 one.

3 Q. This is the 1999 version. And
4 we're going to be getting to what went on in
5 1999.

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1 REDACTED FILED UNDER SEAL

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1 REDACTED FILED UNDER SEAL

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1 REDACTED FILED UNDER SEAL

27 (Pages 102 to 105)

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 REDACTED FILED UNDER SEAL

Q. Do you recall a time in May of 1999, which is a year and a half after the time that you were at Scores, when you sought a transfer to Menlo Park, California?

A. Yes.

Q. And at the time you sought to transfer there with [REDACTED]?

A. [REDACTED].

Q. Isn't that right?

A. Yes.

Q. And who is [REDACTED]?

A. He was an associate who joined the firm in 1997 from business school, who worked

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A. He was a convertible salesperson in the New York office who worked in the California office for some time. And I think he came back, but I don't remember all the details.

Q. Were you -- was your intent in talking to [REDACTED] to talk about California or to talk about how your work might interact with each other if you moved out there or something different?

A. I think it was to learn about his experience. And then we met with the heads of the Menlo Park office, but I don't remember the names of the people who we met with.

Q. Did you go out there or did you meet them when they were visiting?

A. We went out there.

Q. Now, what happened in the end as to the potential transfer to Menlo Park?

A. We were not given the opportunity to transfer.

Q. Did [REDACTED] tell you that he did not approve the transfer?

A. I think what he said was that it

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with me selling international convertible bonds.

Q. And what was your reason for wanting to move to Menlo Park?

A. Twofold. Number one, I didn't feel very comfortable working on that team. Number two, I thought opportunities would be better there than the opportunities for me in international convertible bonds given that many of the clients that were the highest growth clients had been moved to the London office.

Q. When you say clients were moved to the London office, what do you mean by that?

A. The client coverage of those clients were transferred to London sales people.

Q. Who did you speak to about moving to Menlo Park?

A. I don't remember all the people I spoke to, but I spoke to [REDACTED]. I spoke to [REDACTED]. I think I had spoken to [REDACTED] as well.

Q. Who's [REDACTED]?

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was something to the effect of, you know, we could go, but he would just request that we stay for some period of time to help with the transition.

Q. Then how it was that it did not happen, the move, that is?

A. We were simply not given a job offer.

Q. From whom?

A. From the Menlo Park office.

Q. So, in other words the Menlo Park office would have had to agreed to have you come; is that right?

A. Yes.

Q. And they chose not to agree?

A. Yes.

Q. And this was all -- this all took place around May of 1999, correct?

A. Around that period of time.

Q. Now --

A. Yeah, a few months, it happened over the course of, I think, a couple of months, so.

Q. Also around that time, you

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REDACTED FILED UNDER SEAL

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REDACTED FILED UNDER SEAL

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REDACTED FILED UNDER SEAL

anything you might have said about a Morgan Stanley issue?

A. Yes, I mean, I think I asked who would get this info, because I was concerned about providing much details if it was going to go back to [REDACTED] after he had suggested that I not make a big deal about it.

Q. But again, he is the one who referred you to this person; isn't he?

A. Right, but at the same time he

36 (Pages 138 to 141)

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| <div>Page 172</div> <div>1 REDACTED FILED UNDER SEAL</div> <div>2</div> <div>3</div> <div>4</div> <div>5</div> <div>6</div> <div>7</div> <div>8</div> <div>9</div> <div>10</div> <div>11</div> <div>12</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div> | <div>Page 173</div> <div>1 REDACTED FILED UNDER SEAL</div> <div>2</div> <div>3</div> <div>4</div> <div>5</div> <div>6</div> <div>7</div> <div>8</div> <div>9</div> <div>10</div> <div>11</div> <div>12</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div> |

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8 GOLDMAN, SACHS & CO. and THE
9 GOLDMAN SACHS GROUP, INC.,

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10 -----X

11
12 VOLUME II
13 VIDEOTAPED DEPOSITION
14 OF
15 CRISTINA CHEN-OSTER
16 New York, New York
17 Friday, December 9, 2011
18
19

20 Reported by:
21 AYLETTE GONZALEZ, CLR
22
23 JOB NO. 42152
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What facts do you have to support the allegation that Goldman Sachs gives managers unchecked discretion to assign responsibilities, accounts and projects?

A. No check or balance system was ever communicated to employees. It was not communicated how these responsibilities, accounts and projects were delegated. And by virtue of what the result was, I saw that the most lucrative and promising opportunities, assignments, and seats did go to men.

Q. Well, what specific instances of a manager using unchecked discretion to do any of these things can you tell me about?

A. [REDACTED] gave [REDACTED] the project to work on looking at the high yield distressed convertible opportunity without discussing with me and I am the senior person on that team.

Q. And the responsibility he or the opportunity he gave there was to a woman, wasn't it? He gave [REDACTED] an opportunity?

MS. DERMODY: Object to form.

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to him when he said, do not share this information with Cristina Chen-Oster.

Q. You could have done the same thing; couldn't you?

MS. DERMODY: Object to form.

A. No, I would not have done that.

Q. It's not a question of whether you would not have done it. What I'm saying is, Goldman Sachs did not instruct [REDACTED] and you that one or the other of you had more discretion with respect to assigning [REDACTED]; did it?

A. My point is it's unchecked. So if I did it, that would have been unchecked as well.

Q. Right.

A. So the point is, it's unchecked discretion. And the majority are men, the managers, that's my --

Q. So, you're agreeing --

A. That's the point here.

Q. Okay. So you're agreeing with me you had unchecked discretion with respect to [REDACTED], yes?

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A. But it was an unchecked discretion to give that to her.

Q. Didn't you have --

A. That's -- my point is that it's unchecked discretion, not that it was given to a woman.

Q. Didn't you have unchecked discretion to give [REDACTED] an assignment?

MS. DERMODY: Object to form.

A. No, I would tell [REDACTED]. We would consult as a team. We worked together.

Q. No one told you and [REDACTED] that [REDACTED] could give [REDACTED] an assignment without talking to you, but you couldn't give her an assignment without talking to him; did they?

A. This is a project, not a small assignment. There's a big difference.

Q. I don't really -- that wasn't the point of the question.

The question, Ms. Chen-Oster, is you are trying, as I understand it, trying to say that [REDACTED] had more discretion to give [REDACTED] projects than you did?

A. Absolutely. Because she listened

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A. I believe the point here is that there is unchecked discretion by managers and the majority of managers are men.

Q. So, let me just ask my question. You had unchecked discretion with respect to [REDACTED], your subordinate; is that right?

A. As a manager, I had unchecked discretion with [REDACTED] as well.

Q. So --

A. But I happen to be a woman, agreed, but the majority of managers are men. I continue to state that point.

Q. So, your concern is managers have unchecked discretion and to your estimation more men are managers than women; is that right?

A. That is correct.

Q. Now give me examples of unchecked discretion that your managers exercised that you believe was discriminatory.

A. Okay. Account assignments.

Q. Who exercised unchecked discretion with respect to account assignments that you believe was discriminatory toward you?

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A. Toward me, when the accounts were moved -- the hedge accounts were moved to London at the beginning of 1998.

Q. And who did that?

A. [REDACTED] communicated that to me. Whether it was him to who did that, I don't know. It could have been in collaboration with others such as [REDACTED] or others at the firm. It could have been many managers talking together, but it was [REDACTED] who communicated that to me.

Q. But you said that managers had unchecked discretion, did [REDACTED] have unchecked discretion to provide --

A. He did. He did. He did.

Q. What other --

A. But he could have spoken to others about it, but he had unchecked discretion.

Q. What other examples of unchecked discretion by your managers are you claiming was discriminatory toward you?

A. Well, I just told you about that. I've also discussed [REDACTED] having

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unchecked discretion in London in assigning account coverage there. For instance, there was a woman in the London sales desk who lost her accounts to other men.

Q. And who is that?

A. [REDACTED].

Q. [REDACTED]?

A. Yes.

Q. And you say that [REDACTED] was responsible?

MS. DERMODY: Object to form.

A. It was either -- I don't remember if it was [REDACTED] or [REDACTED]. It was one of the two.

Q. What accounts were they; do you know?

A. I don't remember the names of the accounts.

Q. Do you know the circumstances under which the coverage was changed?

A. I don't know all the details.

Q. Did [REDACTED] mention this to you?

A. Yes, she did.

Q. And what did she say?

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A. She said she lost her accounts to other men on the desk.

Q. And did she say [REDACTED] had done that or [REDACTED]?

A. One of the two. The manager at the time, but I just don't remember at this point who exactly that manager was.

Q. What other examples of unchecked discretion are you aware of that you are claiming in this case was discriminatory towards you?

A. As new hedge fund accounts developed over time, because there was a growth in the hedge fund universe, I was asked to move those to London. And eventually, I said that some of these just don't make any sense whatsoever, because some of these accounts don't want coverage out of London. They work New York hours.

Q. And who did you say that to?

A. I believe it was [REDACTED].

Q. And what did [REDACTED] respond?

A. At that time, he -- I believe he said some of them had to be moved and

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eventually I was able to grow some of those myself in New York.

Q. What do you mean by that? So in other words, they weren't moved?

A. Some of them I found and they just didn't want to move. So yes, some of them I was able to keep, but most of them I was asked to move.

Q. And [REDACTED] made that decision?

A. Yes.

MS. DERMODY: Object to form.

Q. Do you have other facts to support your allegation that the exercise by your managers of unchecked discretion was discriminatory toward you?

A. The main ones were the hedge funds. And those happened in '98 and again later.

Q. Again later, what do you mean?

A. What I just mentioned to you with [REDACTED], the hedge accounts, so. But there have been numerous other examples with other managers, such as with [REDACTED]. So when people left, the accounts mostly went to other men. And there were certainly women

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who were more than qualified to take on those
new accounts.

Q. In what area are you talking about?

A. New York Institutional research
sales.

Q. That's the group that you were
discussing going into at or about the time you
resigned, yes?

A. That's right.

Q. And what specific account
assignments are you aware of that you believe
were discriminatorily assigned?

A. To me specifically?

Q. No.

A. Actually, you were asking about
managers to me specifically, so yes, so --

Q. You changed it to [REDACTED]
generally. So it's a general question.

A. So I don't know the specific
accounts. I've just heard that there are --
there have been women who have done well with
their accounts who have not been given the
opportunity to take on additional accounts or
change, who have either grown their accounts

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considerably or have established, you know,
consistent No. 1, No. 2 market share, such as
[REDACTED] and [REDACTED].

Q. Did [REDACTED] complain to you
about account assignments?

A. Indirectly, I think it was more she
felt that she couldn't move upwards because
she had reached her peak with accounts and she
wasn't getting accounts, so it wasn't like
this account didn't go to her kind of
conversation.

Q. Did [REDACTED] tell you that
she believed that she had been discriminated
against based on her sex as opposed to just
stating a concern?

A. She did not use those words.

Q. She did not?

A. Use those words. But others have
alluded to that in respect to [REDACTED],
because she was not part of the boys club that
[REDACTED] was a part of.

Q. Well, let me ask you just to
clarify. [REDACTED] has never said to
you that she felt she was discriminated

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against based on her sex; is that correct?

A. She did not use those words.

Q. You say others have said something
where they think that there was a problem.
Who?

A. [REDACTED].

Q. What did [REDACTED] say to you?

A. [REDACTED] said that she did not
have enough accounts to cover and that her
attribution was too low.

Q. When you say "she" do you mean
[REDACTED]?

A. No, "she" meaning [REDACTED].

Q. I'm sorry. We'll get to [REDACTED].
[REDACTED]. You had said [REDACTED] had not
ever used the words that she had been
discriminated against, others had said
something generally?

A. Oh okay.

Q. So, I was trying to ask you who
specifically told you that he or she believed
that [REDACTED] had been discriminated
against?

A. [REDACTED] and [REDACTED].

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Q. And what did -- [REDACTED] you
were friendly with?

A. How do you define friendly?

Q. Whatever word you use. If you
can't define friendly -- or if you can't use
the word friendly, we'll go on.

A. I wouldn't say we're friendly. We
speak and we're -- we had a good working
relationship.

Q. And what did [REDACTED] say to you
about [REDACTED]?

A. She said that she was a star
performer, that she had the top market share
with all her clients and that she knew that
she could not be promoted because she would
not have the support of [REDACTED], who was
a guys' guy.

Q. So, [REDACTED] told that you she
believed that [REDACTED] was being
discriminated against by [REDACTED]?

A. Correct.

Q. Is this in one of the conversations
you surreptitiously taped with [REDACTED]?
Do you remember whether you had your tape

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Q. Mortgage-backed securities is one that's in the news these days.

A. But how long did that exist before it was shut down?

Q. Well, it was doing well for a while.

A. Right, but how long did it exist before it got shut down?

Q. Do you think a firm has to keep a business open for a certain amount of period of time no matter how much it loses money or how unpromising it is as an obligation towards the employees it's assigned there?

MS. DERMODY: Object to form.

A. I'm not saying that. I'm not saying that.

Q. How about the municipals business. A lot of firms exited that.

A. And how long did they have that before they exited it?

Q. So, what is it about the timing that you believe is discriminatory? I don't understand.

A. It was a short period of time. It

CRISTINA CHEN-OSTER-12/9/11

was fourth quarter September of '02 until the middle of '04. So it was less than it was a year and three-quarters.

Q. You think that's a short period of time for a firm to make a business move and then decide it isn't working out and change, shift gears?

MS. DERMODY: Object to form.

A. Give me an example of something that was started and shut down in terms of a full business area in shorter than that period of time.

Q. I'm asking the questions here.

A. Yes.

Q. Maybe some other time.

Now, did you ever tell anyone that you thought that the construction and then the disbanding of the convertible synthetics business was a discriminatory action directed toward you and others?

A. Yes.

Q. Who?

A. I believe I spoke to [REDACTED], [REDACTED] and [REDACTED].

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Q. By the way, [REDACTED] was your supervisor in synthetics, your manager; wasn't she?

A. She was.

Q. Didn't she have unchecked discretion as to you?

A. She did, but she was one of just a few female managers.

Q. Well, I won't get into numbers with you right now. She was a female manager of yours; wasn't she?

A. She was.

Q. And it wasn't discriminatory of the firm to make her your manager; was it?

A. It wasn't discriminatory, but it was discriminatory to not give her the opportunity to grow that business more than a year and three-quarters.

Q. Now, take a look at paragraph 6 of the Complaint, please.

In this paragraph it says in the first sentence, "Women at Goldman Sachs have received less compensation and have been promoted less frequently than their male

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counterparts as a result of the firm's discriminatory policies, patterns and/or practices." And then it goes on to talk about -- more about company wide policies and practices -- "and are the result of unchecked gender bias that pervades Goldman Sachs's corporate culture."

What is the corporate culture you're referring to that you believe is pervaded by gender bias?

A. Well, as I --

Q. You're smiling. Why are you smiling?

A. Because as I did raise my hand, I mean, I do believe it's a boys' club. I do believe it's a culture and I know I said that certain people were culture carriers, but it's a culture that values power and so people tend to gravitate to the power and the power tends to be among the men who give the power and responsibilities, opportunities, et cetera, to other men.

Q. And then the power is given to the managers to exercise unchecked discretion; is

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1 CRISTINA CHEN-OSTER-12/9/11
2 that the way it works?

3 MS. DERMODY: Object to form.

4 A. That's right.

5 Q. Is there any writing of this
6 culture that you're referring to that you're
7 aware of?

8 A. No, it's an observation. Culture
9 is an observation and embodies a lot of
10 aspects. It's how people communicate to each
11 other. It's how people treat each other.
12 It's how people are situated.

13 Q. Tell me about [REDACTED]. You
14 mentioned that you spoke to her.

15 A. Um-hum.

16 Q. What did [REDACTED] tell you about
17 any -- any belief that she'd been
18 discriminated against?

19 A. She believed she was underpaid
20 relative to her peers.

21 Q. Where did she work?

22 A. Where does she work?

23 Q. No. In what area did she work at
24 the firm?

25 A. She was in synthetic convertible

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2 sales with me.

3 Q. She work with you in synthetic
4 convertible sales. All right. And what did
5 she tell you?

6 A. She told me that her pay was lower
7 than her peers and that her promotion was
8 delayed by a year to vice-president, unlike
9 some of her peers, because of some
10 technicality that was cited, but which I
11 believe certain men were able to get by
12 despite that technicality. And she said that
13 [REDACTED] had told her that he was surprised
14 that her pay was so low relative to her
15 production and performance, and that [REDACTED]
16 [REDACTED] had said to [REDACTED], that's okay, she'll
17 be fine with that number.

18 Q. Did she believe [REDACTED] had
19 discriminated against her? Did she tell you
20 that?

21 A. She told me that, yes.

22 Q. I'm sorry, she told that you she
23 believed [REDACTED] had discriminated against
24 her?

25 A. Oh, no. She told me what I just

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2 told you.

3 Q. You she told you about the episode
4 you just described?

5 A. Correct.

6 Q. Did she tell you that she believed
7 that [REDACTED] had discriminated against her?

8 A. I don't think she said that [REDACTED]
9 [REDACTED] discriminated against her, but she felt
10 that she was being discriminated against
11 without saying a name.

12 Q. Was she working in synthetics
13 convertibles at the time that she had this
14 happen that you're referring to?

15 A. I don't know if she was in
16 convertibles or structured equity. She moved
17 around a couple of times between two desks.
18 So I don't know exactly where she was.

19 Q. All right. So she was in equities
20 between structured and what was the other one
21 you said?

22 A. Convertible bonds sales, because
23 they kept moving her back and forth. So I
24 don't know where she was at that specific
25 time.

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2 Q. You went from convertible bonds
3 sales to synthetic convertibles, correct?

4 A. Yes.

5 Q. And during that time, because that
6 time encompasses from, what, 1997 to 2005,
7 right?

8 A. Which part?

9 Q. The time that you were in
10 convertible bonds and synthetic convertibles?

11 A. Right. Between the two. My entire
12 gear career at Goldman Sachs was 1997 to 2005,
13 correct.

14 Q. And your entire career, besides the
15 last two weeks that we talked about that you
16 did some work at U.S. research sales, was
17 either in convertible bonds or synthetic
18 convertibles, correct?

19 A. Correct.

20 Q. Where did [REDACTED] work during any
21 of those years?

22 A. I think she worked solely in
23 synthetic convertible sales and then moved to
24 convertibles in 2004.

25 Q. And [REDACTED], at the time she

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2 you worked; have you?

3 A. When you mean outside my area, how
4 do you define area?

5 Q. Have you seen a performance review
6 created for a Goldman Sachs employee other
7 than your performance reviews?

8 A. You mean filling out a performance
9 review?

10 Q. The forms?

11 A. Yes, I have.

12 Q. And what forms have you seen other
13 than the ones that were your own performance
14 reviews?

15 A. For equity capital management and
16 for private wealth management.

17 Q. Where did you --

18 A. Or maybe it was IMD.

19 Q. How did you come to see the equity
20 capital management and the IMD forms?

21 A. Because I was, I think, solicited
22 for a review for someone in the equity capital
23 management area.

24 Q. So, you saw the form that you
25 filled out as a reviewer?

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2 2001, because she worked with us from 2000 to
3 2000 -- early 2002. And it would have made
4 sense for me to have given her a review in
5 2001, so I missed the 2001.

6 Q. Right, but back to the question
7 which is --

8 A. Have I seen that?

9 Q. Yes.

10 A. So --

11 Q. Have you seen review materials for
12 employees other than yourself?

13 A. So I think I saw a summary review
14 of [REDACTED].

15 Q. Okay. And [REDACTED], of course,
16 was in your group?

17 A. Right.

18 Q. So, you don't know the extent to
19 which in other divisions of Goldman Sachs the
20 metrics or the form may be different; do you?

21 MS. DERMODY: Object to form.

22 A. I didn't fill out for others, but I
23 was under the impression that the firm was
24 making 360 review process similar for
25 everyone, but I haven't seen.

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2 A. Yes.

3 Q. And maybe my question wasn't
4 distinct enough.

5 A. Oh, sorry.

6 Q. Have you seen the actual
7 performance review forms that are the
8 compilation of comments, other than the ones
9 that you -- that were provided for you?

10 A. Well, prior to discovery I had
11 never seen the -- physically seen, I mean
12 there were selective numbers that were given
13 to me, but I had never physically seen the
14 summary performance review for me. So for
15 instance, that's why I was very surprised when
16 I saw that [REDACTED] had reviewed me in, I
17 think, 2002, when I saw that yesterday, when
18 he was not on my list. I mean, I would have
19 thought that that would have been separate or
20 I would have seen that in the system.

21 I realize that yesterday -- I think
22 I did misspeak. I think I did give one
23 performance review once, because when I was
24 thinking back last night, I think that I did
25 give a performance review to [REDACTED] in

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2 Q. You don't know; do you?

3 A. I have not seen it, no.

4 Q. And in your testimony a little bit
5 before about averages and how one person can
6 skew averages, in fact, even in your own
7 reviews, isn't it correct that in the metrics
8 section the manager sees the individual's
9 metrics in addition to just an average for all
10 reviewers?

11 A. That's right.

12 Q. So the manager can see if there's
13 an outlier?

14 A. Right, but also the point is that
15 the manager has unchecked discretion as to
16 what he prioritizes and notices and what he
17 ignores. There's so much information and he
18 has complete discretion to pick out this, to
19 pick out this, to pick out this, to pick out a
20 comment that may be completely irrelevant and
21 blow that out of proportion and weight that as
22 more important than the actual production of
23 the employee or to, you know, choose a metric
24 that may be creativity where there's no real
25 way to gauge. How do -- how do you define one

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2 more important of the factors are for that
3 particular job?

4 MS. DERMODY: Object as to form.

5 A. No, I don't agree. It's -- I don't
6 agree that it's the manager -- what was the
7 statement you said?

8 Q. I took your last response to
9 essentially be saying, job by job it depends
10 on the job what the more important factors may
11 be. And you said, for example, in sales
12 commercial effectiveness may be the most
13 important, but there might be other jobs where
14 creativity is more important, say a computer
15 expert who's supposed to write code or
16 something like that?

17 A. Right.

18 Q. Isn't it appropriate to have the
19 manager, who knows the job function he or she
20 is managing, in communicating the review, make
21 the judgment as to which are the more
22 important factors?

23 MS. DERMODY: Object as to form.

24 A. I disagree, because I think that
25 there should be a standard practice because

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2 Q. And you would not give the manager
3 any discretion in how to give the review?

4 MS. DERMODY: Object as to form.

5 A. I would give guidelines. The
6 manager can follow the guidelines, but they
7 should have stronger guidelines, as well as
8 guidelines for the managers as to how they
9 select who the reviewers are for each
10 employee.

11 Q. Well, now we've had a conversation
12 about selection of reviewers. You, in 2002, I
13 believe it was, had a dialogue with your
14 managers about your reviewer list. And you
15 had the first cut of selecting your reviewers;
16 didn't you?

17 MS. DERMODY: Object as to form.

18 A. I had the first cut in terms of
19 selecting.

20 Q. And don't you believe it
21 appropriate for management to review those
22 individuals selected by the subject of the
23 review as the people to give the review?

24 MS. DERMODY: Object as to form.

25 A. Yes, I agree that it's appropriate

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2 there aren't that many job functions. I think
3 sales is pretty much the same across different
4 products. It's just sales. It's sales of
5 convertibles, sales of research, sales of
6 mortgage backed securities, sales of
7 commodities, sales of FX. It's still sales.
8 So that job function should have the same sort
9 of criteria in terms of metrics.

10 Q. So if you're --

11 A. For trading across the different --
12 I'm sorry to interrupt -- products should
13 similarly be the same. I think that it really
14 should be based upon more job function, which
15 is consistent across the securities division
16 and should be consistent across the various
17 other divisions as well.

18 Q. So, in your perfect job -- in your
19 perfect performance system, you would have the
20 employer dictate to the manager exactly the
21 job by job what are the more important factors
22 and which are the less important factors job
23 by job?

24 A. Yes, I do think it's important to
25 have guidelines for the managers to follow.

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2 for the manager to review that, but I also
3 think that it's appropriate for the employee
4 to know if something has been changed without
5 having the employee having the burden to go
6 back to the system and having to check and
7 notice that a change has been made. It should
8 be a collaborative effort, but also there
9 should be guidelines that both the employee
10 and the managers follow, not just the
11 managers. I think the employees should follow
12 that as well.

13 Q. Let me ask you back to where we
14 started after lunch. Why is it that you say
15 that a system that gives the manager the
16 discretion to communicate the review to the
17 employee as to how that employee has done that
18 year is discriminatory?

19 A. I believe that a system that a
20 manager communicates to the employee is
21 discriminatory if there are aspects of the
22 review that the employee does not see as part
23 of his or her record.

24 Q. Why is it discriminatory?

25 A. Because the manager has unbridled

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2 discretion to choose metrics, to choose
3 comments, to choose where those comments and
4 metrics come from.

5 Q. And you're assuming the manager is
6 going to discriminate?

7 A. I'm not assuming the manager is
8 going to discriminate, but I think the impact
9 has been discriminatory. I think that from
10 what I've heard, that, in general, women are
11 systematically reviewed more negatively than
12 men in terms of the quantitative scores and in
13 terms of the comments.

14 Q. And your belief is that the grant
15 of discretion to managers is intentionally
16 done to discriminate against women?

17 MS. DERMODY: Object to form.

18 A. I don't think that the performance
19 review system was designed to be
20 discriminatory, but I think that the impact
21 and the practice has resulted in a
22 discriminatory result.

23 Q. Let's turn to paragraph 46 of the
24 Complaint. It's on page 10, paragraph 46.
25 In paragraph 46 you allege that

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2 overlapping day. I think that's the way it
3 worked. And yet even though they both had
4 well over ten years of experience, many, many
5 years of experience, [REDACTED]
6 compensation was less than that of [REDACTED]
7 [REDACTED].

8 Q. What do you know -- how do you know
9 what his compensation was?

10 A. I don't know. I just know on a
11 relative basis based upon what she's told me.

12 Q. You're stating what you heard from
13 [REDACTED]?

14 A. Yes.

15 Q. All right. Did you have --

16 A. And I'm sorry. One more thing to
17 add. And also credit I would interpret to say
18 credit in terms of recognition. And so she
19 would tell me about situations whereby she may
20 talk to a client about a trade and just
21 because the trade actually transacted on the
22 day that [REDACTED] happened to be in the office
23 that day, that he would get full credit or
24 recognition for that trade, you know, in terms
25 of acknowledgment, not necessarily sales

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2 "Goldman Sachs allows its managers unfettered
3 discretion to determine how credit is
4 allocated to employees who share assets,
5 accounts or responsibilities for a particular
6 business. This subjectivity favors male
7 employees what systematically receive more
8 credit for generating revenues for the firm
9 than their female co-workers."

10 A. Okay.

11 Q. Who are the managers who determine
12 how credit is allocated to employees?

13 A. Well, the way that I interpret
14 credit to mean here is compensation. And I
15 can site one example and there's probably many
16 more, but what comes to mind as an actually
17 perfect example for this is that on the
18 convertibles desk, which I'm probably closest
19 to, [REDACTED] and [REDACTED] had a
20 client co-coverage relationship. Everything
21 was supposed to be equal-equal. They covered
22 the exact same accounts for the U.S.
23 convertible bonds. They both worked either a
24 three or four-day week, I forgot which, but I
25 think it was mostly a three-day week, with one

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2 credit, by people even though it's --
3 everything is a team effort and she started
4 that idea generation with the client.

5 Q. Well, you're talking about a
6 situation with two people sharing a job with a
7 day overlap and credit if something happens
8 when one person is in the office or the other?

9 A. Right, but this is how I read this,
10 determine how credit is allocated.

11 Q. In your area, was anyone -- any
12 manager determining credit in a way that you
13 believe was discriminatorily affecting you?

14 A. Yes.

15 Q. Tell me what.

16 A. I was asked to train [REDACTED] as
17 my partner, even though he was just coming out
18 of business school in 1998 with no financial
19 work experience. And I had already been
20 working for seven years in the industry. And
21 he was given the opportunity to work with the
22 same accounts in the U.S. for the European
23 convertible business, which was a higher
24 growth area, given the advent of the Euro just
25 the upcoming year in 1999. And in fact, the

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a leave of up to four months fully paid,
correct?

A. That is correct.

Q. What is it about that, the firm's
policies with respect to pregnancy that you
believe is discriminatory?

A. I believe that the firm has a legal
obligation by the FMLA to provide a woman with
an equivalent job upon her return from
maternity leave.

Q. And do you believe in your
circumstance that duty was not complied with?

A. I do.

Q. In what respect?

A. In the respect that when I returned
from my maternity leave, my seat was moved,
such that it was in an area surrounded by
administrative assistants. And I did not have
a specific job to do or group to belong to
when I returned from maternity leave.

Q. And what you're referring to is the
disbanding of the synthetic convertible group;
isn't that right?

A. That is correct.

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Q. And that decision to disband the
group took place, I think you said on kind of
a rolling basis beginning while you were out,
correct?

A. That is correct.

Q. And it affected four individuals,
not just you alone, correct?

A. That is correct.

Q. And the seat that you said you were
given you were in only for ten working days in
November; isn't that correct?

A. The seat that I returned to?

Q. Um-hum.

A. I don't think so.

Q. You came back on November 10;
didn't you?

A. I came back November 10th. I
don't -- I thought, but I could be mistaken,
it was closer to the beginning of December
when they changed my seat.

Q. All right. You came back
November 10 and your seat was changed
December 1, yes?

A. Um-hum.

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Q. But you took a week's vacation
between November 10 and December 1; didn't
you?

MS. DERMODY: Object to form.

A. I don't remember that.

Q. Assuming you did take a week's
vacation and assuming there's Thanksgiving and
the weekends days, isn't it fair to estimate
that there were approximately ten working days
that your seat was in the location that you're
complaining about?

MS. DERMODY: Object to form.

A. Yes, that's correct, then, if those
are the way that you define it, then the seat
I would have had would have been ten days in
that seat in the days that I was in the
office. However, I think that it could have
happened indefinitely had I not complained.
They would not have changed the seat if I did
not complain about it.

Q. Turning back now from the pregnancy
part of this policies you identified, you
identified promotion, performance reviews
assignment, resources, and pregnancy. Are

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there any -- we, of course, marked early in
the deposition the firm's equal opportunities
policy against discrimination.

Are there any written firm policies
of which you're aware that instruct
individuals to discriminate against women
based on their sex?

A. No, I'm not aware of any -- any
written policies that instruct anyone to
discriminate women on the basis of pregnancy.

Q. And the policies you're referring
to here are policies or practices that are
unwritten; isn't that right?

A. So when I say practices, yes, I
mean the practice of having this happen
unchecked, because the fact that it happened
should not be acceptable.

Q. So, for example, would the
performance reviews you're referring to, what
you testified to earlier about managers having
unchecked discretion to decide which review
comments to give to the individual?

A. Do I view that as discriminatory?

Q. Um-hum.

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A. Yes, I view as discriminatory, as it pertains to performance reviews, the fact that managers can selectively choose comments and metrics and quantitative measures to communicate in only a verbal manner to the employees, as -- as well as the fact that they can select the reviewers, as well as the fact that the employees cannot see the comments and the scores or the manager's comments, as well as the fact that the metrics are not defined all as discriminatory.

Q. And that's the policy with respect to policy or practice with respect to performance reviews that you're complaining about?

A. That's the practice that I see. What -- yes.

Q. What is the policy -- and the policy or practice concerning promotion that you're complaining about, is that what you referred to earlier with respect to the vice-president promotion policy?

MS. DERMODY: Object to form.

Q. Practice, I should say.

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Excuse me.

MR. ROGERS: Well, it's improper.

MS. DERMODY: I'm going to talk. I'm going to make an objection to this entire line of questioning to one Complaint and another Complaint eliciting facts supporting allegations and asking the witness the very same information. This is not a memory test. These questions have all been asked and answered. You're wasting precious time. If we were at trial this would all be inadmissible and improper. So I'm going to interpose an objection. You can answer the question, but I want that on the record.

A. Can I --

MR. ROGERS: I beg you to abide by the standards that apply to depositions and stop the speaking objections.

Q. Please go ahead.

A. Can I state that what I've said

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MS. DERMODY: Excuse me. Object to form.

Q. All right. Let me say, what is -- where do you find the company policy with respect to promotion that you're saying is discriminatory?

MS. DERMODY: Object to form.

A. The discriminatory practice of promotion, I see as -- as it pertains to promotion, is not showing the promotion criteria and sharing that broadly so that employees can try to achieve those criteria, and also, the process by which managers have full discretion to choose who they nominate for promotion.

Q. So, what you're saying is that in the absence of criteria, managers have discretion and you think that's discriminatory; is that correct?

MS. DERMODY: Object to form. And I also object to the line of --

MR. ROGERS: I object to speaking objection. You've objected to form.

MS. DERMODY: I'm going to talk.

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before as it pertains to the previous complaint, I reiterate now.

MR. ROGERS: See what I mean?

This is exactly the reason why what you're doing is improper, but the witness has picked up the cue and we'll move on.

MS. DERMODY: The fact that you have ignored the evidentiary rules is something that's the subject of proper objection. And the fact that I allowed testimony, I think, was indulgent. It was a proper objection and the fact that you're causing the witness to engage in a memory test, I think, is very inappropriate.

Q. Let's continue. What was the question I asked before the long speaking objection.

(Whereupon, the referred to question was read back by the Reporter.)

A. Oh, I'm sorry.

Q. That's the question.